

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF VIRGINIA
Alexandria Division

D.C., *et al.*,
Plaintiffs,

v.

FAIRFAX COUNTY SCHOOL
BOARD, *et al.*,
Defendants.

1:22-cv-01070 (MSN/IDD)

ORDER

This matter comes before the Court on Defendants' Motion to Clarify (Dkt. No. 91). Because it appears just and proper to do so, that motion will be granted.

In its Memorandum Opinion and Order (Dkt. No. 90), the Court stated that, when plaintiffs fail to exhaust their administrative remedies, "the court lacks subject matter jurisdiction to hear their claims." Dkt. No. 90 at 10. The Fourth Circuit, however, has recently overruled its precedent to "hold the IDEA's exhaustion requirement is not a jurisdictional requirement but a claims-processing rule." *See K.I. v. Durham Pub. Sch. Bd. of Educ.*, 54 F.4th 779, 792 (4th Cir. 2022). For that reason, the Court will modify its Opinion to disclaim the notion that Plaintiffs' claims were dismissed on jurisdictional grounds. Instead, without changing any other aspects of its analysis, the Court treats the IDEA's administrative exhaustion requirement as a claims-processing rule. But, because the same reasons that D.C. and the Chaplicks fail the exhaustion requirement are dispositive whether it is jurisdictional or a claims-processing rule, Plaintiffs' claims remain dismissed. Accordingly, it is hereby

ORDERED that Defendants' Motion to Clarify (Dkt. No. 91) is **GRANTED**; and it is further

ORDERED that the Court's Memorandum Opinion and Order (Dkt. No. 90) is **MODIFIED** in accordance with this Order.

SO ORDERED.

/s/

Michael S. Nachmanoff
United States District Judge

August 1, 2023
Alexandria, Virginia